



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,988	03/14/2002	Cenneth Gunnarsson	33980R003	6433

441 7590 04/22/2003

SMITH, GAMBRELL & RUSSELL, LLP
1850 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036

EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
----------	--------------

3653

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,988

Applicant(s)

GUNNARSSON, CENNETH

Examiner

Joseph C Rodriguez

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

The claims are objected to as the form of claims 1-6 is improper. Where a claim sets forth a plurality of elements or steps, as in the instant claims, each element or step should be separated by a line indentation. See MPEP 608.01(m) and 37 CFR 1.75(i).

Further, the claim language "trough" (claim 3, ln. 3 and claim 7, ln. 2) should read "through".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3-4, 6-7 and 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 8 recite the limitation "the curving path" (ln. 2). There is insufficient antecedent basis for this limitation in the claims.

Claims 3 and 7 recite the limitation "the discharge end" (ln. 2). There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3653

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rapley (US '850).

Rapley teaches an arrangement (Fig. 1) comprising an incoming conveyor (7) and a downwardly moving conveyor (5) with projecting carriers (4), wherein a curved guide space defined by guide rails (8,9) faces the incoming conveyor and curves downwards. Hereinafter, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the guide rails are regarded as capable of turning a timber piece downwards, the carriers are regarded as capable of inclining obliquely downwards during their operation and of forming a tangent with the curving path of the guide space.

Claims 1-2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fowler, Jr. ("Fowler") (US '764).

Fowler teaches an arrangement (Fig. 1) comprising an incoming conveyor (12, 14) and a downwardly moving conveyor (16) with projecting carriers (near 16), wherein a curved guide space defined by guide rails (Fig. 1) faces the incoming conveyor and curves downwards. Here, the guide rails are regarded as capable of turning a timber piece downwards and the carriers are regarded as capable of inclining obliquely

Art Unit: 3653

downwards and of forming a tangent with the curving path of the guide space during their operation.

Allowable Subject Matter

Claims 3, 4, 6, 7 and 9-11, pending resolution of the issues raised above, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C Rodriguez whose telephone number is **703-308-8342**. The examiner can normally be reached on M-F during normal business hours (9 am – 6 pm, EST).

The examiner's **Personal fax number** is **703-706-3678**.

The **Official** fax phone number for the organization where this application or proceeding is assigned is **703-306-4195**.

The **UnOfficial** fax phone number for the organization where this application or proceeding is assigned is **703-306-4195**.

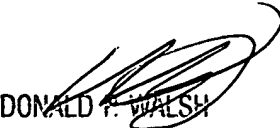
Application/Control Number: 10/070,988

Page 5

Art Unit: 3653

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

April 15, 2003



DONALD F. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600